

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### LOCALISM BILL

*Nineteenth Sitting*

*Thursday 3 March 2011*

*(Morning)*

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#### CONTENTS

Written evidence reported to the House.

CLAUSES 122 and 123 agreed to.

CLAUSE 124 under consideration when the Committee adjourned till  
One o'clock.

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**The Committee consisted of the following Members:**

*Chairs:* MR DAVID AMESS, † HUGH BAYLEY

- |                                                                                                        |                                                                                                          |
|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| † Alexander, Heidi ( <i>Lewisham East</i> ) (Lab)                                                      | † Ollerenshaw, Eric ( <i>Lancaster and Fleetwood</i> ) (Con)                                             |
| † Barwell, Gavin ( <i>Croydon Central</i> ) (Con)                                                      | † Raynsford, Mr Nick ( <i>Greenwich and Woolwich</i> ) (Lab)                                             |
| † Bruce, Fiona ( <i>Congleton</i> ) (Con)                                                              | † Reynolds, Jonathan ( <i>Stalybridge and Hyde</i> ) (Lab/Co-op)                                         |
| † Cairns, Alun ( <i>Vale of Glamorgan</i> ) (Con)                                                      | † Seabeck, Alison ( <i>Plymouth, Moor View</i> ) (Lab)                                                   |
| † Clark, Greg ( <i>Minister of State, Department for Communities and Local Government</i> )            | Simpson, David ( <i>Upper Bann</i> ) (DUP)                                                               |
| † Dakin, Nic ( <i>Scunthorpe</i> ) (Lab)                                                               | † Smith, Henry ( <i>Crawley</i> ) (Con)                                                                  |
| † Dromey, Jack ( <i>Birmingham, Erdington</i> ) (Lab)                                                  | † Stewart, Iain ( <i>Milton Keynes South</i> ) (Con)                                                     |
| † Elliott, Julie ( <i>Sunderland Central</i> ) (Lab)                                                   | † Stunell, Andrew ( <i>Parliamentary Under-Secretary of State for Communities and Local Government</i> ) |
| † Gilbert, Stephen ( <i>St Austell and Newquay</i> ) (LD)                                              | Ward, Mr David ( <i>Bradford East</i> ) (LD)                                                             |
| † Howell, John ( <i>Henley</i> ) (Con)                                                                 | † Wiggin, Bill ( <i>North Herefordshire</i> ) (Con)                                                      |
| Keeley, Barbara ( <i>Worsley and Eccles South</i> ) (Lab)                                              |                                                                                                          |
| † Lewis, Brandon ( <i>Great Yarmouth</i> ) (Con)                                                       | Sarah Davies, <i>Committee Clerk</i>                                                                     |
| † McDonagh, Siobhain ( <i>Mitcham and Morden</i> ) (Lab)                                               |                                                                                                          |
| † Mearns, Ian ( <i>Gateshead</i> ) (Lab)                                                               |                                                                                                          |
| † Morris, James ( <i>Halesowen and Rowley Regis</i> ) (Con)                                            |                                                                                                          |
| † Neill, Robert ( <i>Parliamentary Under-Secretary of State for Communities and Local Government</i> ) | † <b>attended the Committee</b>                                                                          |

## Public Bill Committee

Thursday 3 March 2011

(Morning)

[HUGH BAYLEY *in the Chair*]

### Localism Bill

#### Written evidence to be reported to the House

L 152 Neighbourhood group from a combined Hampshire village of Wildhern and the hamlet of Charlton Down (Matt Dobson, Ian Dobson, Nicol McGregor, Sue McGregor, Ian Swayne, Rosie Swayne, Jan Maynard, Liz Wallis)

L 153 Somerset county council

L 154 EDF Energy

L 155 Association of Council Secretaries and Solicitors

L 156 Chartered Institute of Public Finance and Accountancy

L 157 R.H.K. Stephens, chairman, standards committee, Tewkesbury borough council, Gloucestershire

L 158 New Local Government Network

#### Clause 122

ALLOCATION ONLY TO ELIGIBLE AND QUALIFYING PERSONS: ENGLAND

9.30 am

**Alison Seabeck** (Plymouth, Moor View) (Lab): I beg to move amendment 223, in clause 122, page 106, line 40, after ‘may’, insert

‘after a consultation of not less than 12 weeks with local housing authorities, registered providers of social housing, tenants and other such persons or organisations as the Secretary of State considers appropriate.’

It is a pleasure to serve under your chairmanship, Mr Bayley. The clause attempts to offer additional flexibility in the allocations process. That in itself is no bad thing, but we have concerns that the powers in the clause could produce perverse outcomes if misused. Those concerns are shared by the Chartered Institute of Housing, which emphasised that local authorities must be accountable to their communities

“and that communities must be representative—otherwise authorities that don’t want to accept certain people will be able to exclude them”,

and it went on to talk about the powers of the Secretary of State. Amendment 223 would ensure that the Secretary of State could bring forward regulations only after a full consultation. If the Secretary of State is minded to exclude an entire category of people from eligibility for social housing, there needs to be appropriate due process.

The clause grants the Secretary of State a centralising power, so that he can decide who should or should not be “qualifying persons” for social housing. I am sure that the Minister will say that no Secretary of State

would misuse those powers, and we certainly hope that they would not. The measure, however, is not localist—it is centralising, and that is a common theme in what is being described as a Localism Bill. I should therefore be interested to hear what classes of person the Minister believes the Secretary of State might decide to exclude. What criteria does he believe may or “may not be used by local housing authorities”

at the discretion of the Secretary of State? It would be helpful if the Committee had some examples of the type of scenario envisaged by that phrase, so that we could better understand why it is necessary. The Secretary of State making those decisions, which will have such a local impact, ought to speak to councils, housing associations, charities and other interested bodies, as well as tenants. We do not see why the amendment should not become part of the Bill. At this stage, it is just a probing amendment, and we wait to hear what the Minister says.

**The Parliamentary Under-Secretary of State for Communities and Local Government (Andrew Stunell):** It is good to get going again this morning, Mr Bayley. I do not know if it is a reassurance to the hon. Lady if I say that clause 122, which she seeks to amend, is actually part of the Housing Act 1996. She will see that most of the clause is in inverted commas. Proposed new section 160ZA(8) is an unchanged transposition of the existing legislation. For what we hoped was the sake of clarity, rather than inserting stray words here and there in a provision that would otherwise be extremely difficult to comprehend, we have completely reproduced the section in the Bill, with various amendments incorporated. The clause leaves the provisions completely unchanged. I think that I am correct in saying that the way that those provisions have been used before is that the Secretary of State, particularly in relation to foreign nationals, makes a general statement or proposition about eligibility.

As the hon. Lady says, this is a probing amendment, and she wants to know what the provisions are about; one would have to go back and speak to those who drafted the 1996 legislation. However, its provisions have certainly survived unscathed after 13 years of Labour Government proposals.

Amendment 223 would impose a 12-week consultation period, but that is good administrative practice in any case, and it seems unnecessarily cumbersome to impose something on top of a process that appears to have worked without significant protests, side effects or, indeed, ill effects. It would seem sensible not to encumber the Bill with a statutory consultation period when such consultation is exactly what happens.

As I say, I quite understand that the hon. Lady wants to find out what the provisions are about. They are about maintaining the existing statutory provision, which will, on occasion, require the Secretary of State to take a decision about eligibility. That might relate to, say, changes in immigration law, our international obligations or other matters of that scale and type. If the Secretary of State had to take such a decision, it would be normal administrative practice for there to be such a consultation period, so I hope that the hon. Lady will not press her amendment to a Division.

**Alison Seabeck:** I thank the Minister for that response. Obviously, we were aware that the provisions were a pull-across from the 1996 Act. However, as I did not

have enough time to go back through the Committee deliberations on that legislation and read exactly what the debates were about, I was rather hoping that the Minister would fill in some of the gaps for the benefit of the Committee. In a brief stand part debate, I will come back to one of the points that the Minister raised. However, will he tell the Committee how often the Secretary of State has used these powers since 1996? I am curious to know exactly how well used they are.

**Andrew Stunell:** My understanding is that they have been used very infrequently—at the outset of the scheme, and from time to time when our international obligations have changed. I do not have a precise number, but I can assure the hon. Lady that there have been very infrequent changes to the broad eligibility criteria. We are talking about whether somebody without British nationality or migration visa status can be considered by a local authority for inclusion on the list.

As the hon. Lady will understand, the issue generates a lot of misunderstanding among people on the waiting list, who assume that the restrictions do not exist and that people can queue-jump and do various things that, in practice, they cannot. She will recognise that the provision is entirely sensible. As I said, changes to immigration rules or our international obligations are the kind of circumstances in which the Secretary of State might seek to make further regulations.

**Alison Seabeck:** I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Alison Seabeck:** I beg to move amendment 224, in clause 122, page 107, line 10, at end insert

‘and the applicant has previously been informed that the notice will be available and how it can be collected.’

Proposed new section 160ZA(10) of the Housing Act 1996 says:

“That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority’s office for a reasonable period for collection by him or on his behalf.”

My hon. Friends and I have concerns about the way that subsection (10) is drafted. It probably mirrors previous legislation, including legislation introduced by the Labour Government, but that is not to say that we do not think that it should be amended.

As the Bill stands, an applicant might never receive the letter, but they would none the less be treated as if they had been informed. It does not seem fair that an applicant will be treated as if they have been informed, even though they might never have received the letter. We all know that a lot of letters—millions—go missing in the post, and we will have spoken to constituents in our surgeries who claim that they have not received an important letter, so it is a little bizarre to state in legislation that even if the letter is not received, it will be considered as having been. I am sure that we have all had people in our surgeries saying, “Sorry guv, the letter didn’t arrive,” and there clearly needs to be protection against that sort of abuse, but we are trying to strengthen the protections for the applicant while not giving carte blanche to someone who, not liking the content of a letter, pretends not to have received it. The amendment

would ensure that if the letter were genuinely not received, the applicant would be told, verbally, during the first point of contact that a copy was available for collection at the authority’s office and, although this is not in the amendment, a time scale should perhaps be given, to avoid confusion.

The amendment is a sensible minor change to the clause, and it would reduce any potential for confusion, particularly as many of the people concerned are vulnerable or have a range of other difficulties, and the non-receipt of a letter might not be their No. 1 priority. They might not even have taken it in that that was how things would happen. We need to reinforce the advice given to applicants at an early stage.

**Andrew Stunell:** The hon. Lady is right that this is not a new and scary provision; it rolls forward an existing provision. The amendment, which in effect says that local authorities should use their best endeavours to inform an applicant of whether they have been successful, is really a matter of good administrative practice, and might well be expected of local authorities as a matter of course.

I know from my surgeries—and I am sure that all right hon. and hon. Members know from theirs—that applicants who have, with serious intent, applied to the council saying, “Please can you put my name on the waiting list?” and have not had a response soon find ways of letting that be known. We just need to have regard to the fact that an applicant with a serious intention of getting their name on the waiting list who has in some way been overlooked, or has had a written notification that they have been taken seriously gone astray, will surely contact the housing association about the outcome.

**Mr Nick Raynsford** (Greenwich and Woolwich) (Lab): The Minister will understand that a number of local authorities now operate choice-based letting schemes, in which the length of time that people have been registered is a material factor, so if there is a delay because an individual who ought to have been registered is not, and there has been uncertainty as to whether they have been on the list, that could affect their prospects of being allocated a house. Is it really fair to not accept an amendment that simply says that what the Minister wants—good practice—must happen? We all know that many authorities do not, as the Minister suggests they should, make every endeavour to ensure that individuals are provided with the information they need, and we all know that letters sometimes go missing. Surely, therefore, the amendment is not unreasonable.

**Andrew Stunell:** I entirely agree with the right hon. Gentleman that in a choice-based system qualifying time is often taken into account. I am sure that it is within his experience—as it is within mine—that people come to our surgeries and say, for example, “I put my name down 10 years ago, but they say that I haven’t.” The area will always be problematic and, to be frank, I do not think that we could introduce any legislative provision that would make a difference.

9.45 am

From that point of view, what has been relied on in the past—and surely should be in the future—is good

administrative practice by local authorities. I would like to pick up a point: I might have given a misleading impression that the provision had been in force since 1996. In fact, because there was no discretion for local authorities in the Homelessness Act 2002, it was not a consideration for local authorities between 2002 and now. It was in force between 1996 and 2002.

**Nic Dakin** (Scunthorpe) (Lab): I listened carefully to the Minister's exchanges with my hon. Friends. He seems to be saying that what is being put forward is good practice and ought to happen. I have not heard any reason for it not being accepted as an amendment.

**Andrew Stunell:** The question is how far we fill the Bill with prescriptive requirements on matters that are actually routine and good practice. I am happy to consider the points raised by the hon. Member for Plymouth, Moor View, and the right hon. Member for Greenwich and Woolwich. We need to ensure, of course, that the information is conveyed effectively and appropriately. I hope that, on that basis, the hon. Lady will consider withdrawing her amendment.

**Alison Seabeck:** I thank the Minister for at least being willing to consider whether we can improve the clause and offer additional protection to people who may be wronged or affected by the inadequate administrative processes of some local authorities. On that basis, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Question proposed,* That the clause stand part of the Bill.

**Alison Seabeck:** I have a couple of questions arising in part from something the Minister said during his initial response to amendment 223. I was going to ask the Minister if he could give an example of a person who would fall within proposed new section 160ZA(4) to the Housing Act 1996—other than, perhaps, the Gaddafi family. On a serious note, we have talked about foreign nationals. Are there any other groupings that could be envisaged?

I would also welcome the Minister's understanding of subsection (1)(a), given that many of us will have constituents who are in subsisting relationships. I can think of at least three in my constituency, and I do not have a particularly large ethnic minority population. They are in relationships and may have a child, but one party's immigration status is unresolved. It would be helpful to clear up the position of the partner with the child, to whom the local authority might have some duty, or who should rightly benefit from an allocation. It would appear from that subsection that that family unit might be debarred from having a home allocated. I would welcome reassurance that that is not the case.

Will the Minister also clarify the position of the person whose partner applies under subsection (6)(b) and is refused, not on the grounds of qualification? Would it be possible for the partner to appeal against the decision, under subsection (11)? I might have misinterpreted that, but there seems to be some confusion and I would welcome clarification. For the benefit of the Clerks, I think that there is a point of correction

involving grammar. On line 1 of page 107, "decide" should read "decides", but that is a minor point at the end of things.

**Andrew Stunell:** I thank the hon. Lady for her questions. Overall, clause 122 is designed to give local authorities the power to decide who should go on their waiting lists, rather than having a national rule that says that anybody and everybody can unless the Secretary of State says not. She rightly asked me several questions about who will be excluded in any case. We are giving local authorities discretion to include, but the Bill gives the Secretary of State powers rolled forward from previous times to say, "Notwithstanding your discretion, there are some types of people to whom you cannot allocate homes." She asked me to say something about the specifics in two different cases, I think. I will deal first with the case of parents who are excluded from consideration due, for instance, to their immigration status, and who have no recourse to public funds.

**Alison Seabeck:** May I clarify? I have obviously not made myself clear. I was discussing an example in which one of the parents is not eligible under the clause. For instance, one might be a British national and have a child, but their partner might not be, and the partner's immigration status might be questionable under subsections (2) and (4) of the proposed new section. The example involves a mix in the partnership, not parents who both have no status.

**Andrew Stunell:** Obviously, if somebody qualifies to be put on the list, they are entitled to be put on the list regardless of the company they keep, if I can put it that way. I hope that that reassures the hon. Lady.

**Alison Seabeck:** I fully accept that the issue is complex, and I might have misinterpreted this, but the clause says:

"A local housing authority in England shall not allocate housing accommodation...to two or more persons jointly if any of them is a person mentioned in paragraph (a)".

The person mentioned in paragraph (a) is a person from abroad who is not eligible for housing. I can think of at least three families in which one partner is certainly not eligible for housing. Their immigration status is uncertain and unclear; they are probably going through appeals. I am not sure that the Minister is telling me what I understand the clause to mean.

**Andrew Stunell:** I think that I am, although I might get more inspiration on that point in a moment.

The other question that I think the hon. Lady asked involved a tenancy in which one partner is not eligible to be on the list, the partnership dissolving and the ineligible tenant and a child are left behind. Will they be able to exercise their right to be on the list? I believe that the correct answer is no. They will be treated under homelessness legislation and will come under provisions later in the Bill.

I am not sure that the inspiration that I have received meets the hon. Lady's point, but it tells me that subsection (4) deals with persons from abroad not subject to immigration control: that is to say, European Union nationals. That is not a new provision either.

**Alison Seabeck:** May I help the Minister out?

**Andrew Stunell:** Please do.

**Alison Seabeck:** I would be happy if the Minister would respond to me and the Committee in writing on the specific point, which probably relates to subsection (2) of the proposed new section rather than subsection (4), and then back to subsection (1)(b).

**Andrew Stunell:** Inspiration has been a little fitful this morning, but basically the family has eligibility by virtue of having an eligible person in it, alongside ineligible people and children, but the tenancy can be only in the name of the eligible person.

**Mr Raynsford** *rose*—

**Andrew Stunell:** The right hon. Gentleman has a great deal of expertise on the matter, so I look forward to his intervention.

**Mr Raynsford:** The territory is complex, but it is quite common for households that have brought a member from abroad whose recourse to public funds is restricted to be denied access to public resources because of that, even though one or both parents may be British citizens who are entitled to public housing and the pupil premium. I am in correspondence with the Secretary of State for Education about that, as it appears that in circumstances in which one parent in a household is subject to restrictions on access to public funds there may be a block on the application of the pupil premium. That would be very unfortunate for households in areas where there is a real need for additional resource because of financial circumstances.

Given that this is complex territory, I wholly support the request of my hon. Friend the Member for Plymouth, Moor View that the Minister reflects on the matter. The Bill's wording could have perverse consequences that would preclude one or two parents and their child, all of whom are entitled to be considered for the allocation of public housing, to be denied it because of the presence in the household of someone who might have arrived recently and was subject to restrictions on access to public funds, or other immigration restrictions. Those complex cases could create the difficulties, so I urge the Minister to reflect further.

**Andrew Stunell:** I am in reflective mood, but I believe that the right hon. Gentleman is mistaken about that because we have simply brought forward existing wording, even though that might involve some difficulties, as I think we have all seen. If Opposition Members are urging that we should not simply preserve existing rights and restrictions, but re-examine whether they are drawn in the right place, we shall of course take a look at the matter, although I do not give an undertaking that doing so will bring a certain result. However, I accept that this is an area for discussion, and in the light of that, I hope that the hon. Member for Plymouth, Moor View will be satisfied for clause 122 to be added to the Bill.

**Alison Seabeck:** I am grateful to the Minister and would appreciate some clarification about the single circumstance that we flagged up to make sure that there

is not the potential for families to fall outside the system. On that basis, I shall be happy for the clause to stand part of the Bill.

*Question put and agreed to.*

*Clause 122 accordingly ordered to stand part of the Bill.*

## Clause 123

### ALLOCATION SCHEMES

**Alison Seabeck:** I beg to move amendment 225, in clause 123, page 109, leave out lines 1 to 3.

The amendment deals with yet another power that Ministers want to award to the Secretary of State. I recognise that the Opposition Front Benchers are perhaps becoming a little repetitive, but there are far too many Henry VIII centralising clauses in the Bill. Under the clause, proposed new section 166A will be inserted into the Housing Act 1996, subsection (8) of which will give the Secretary of State the power to specify factors that local authorities

“must not take into account in allocating housing”.

Why does the Secretary of State need the power. Why are Ministers so concerned not to let local authorities act in what they believe is the best interest of residents? More importantly, perhaps, what factors do Ministers believe the Secretary of State will rule out of consideration? There has been a bit of a theme this morning about what the Secretary of State can rule in or out.

10 am

Local housing authorities and housing bodies are already bound by legislation such as the Equality Act 2010 and the Human Rights Act 1998, so the power cannot be to protect against possible discrimination because that is already guaranteed by statute and the courts. How does the Minister envisage the power being used? How prescriptive will the Secretary of State be about the discretion of local authorities? If the Minister does not believe that the Secretary of State will be prescriptive, why is the power needed at all?

**Andrew Stunell:** I thank the hon. Lady for giving me the opportunity to explain the situation. Essentially, clause 123 allows local authorities to set their own allocation schemes. It is necessary to give the Secretary of State a backstop provision because, as the right hon. Member for Greenwich and Woolwich said, we know that all local authorities do not always proceed in the best way possible. We consulted on that during the recent consultation period, when there was a clear majority in favour of retaining the current reasonable preference categories exactly as they are, which is why we do not propose to change them.

Proposed new section 166A of the 1996 Act differs from the existing section 167 in one main respect. Section 167 allows local authorities to give no preference to those guilty of unacceptable behaviour; by inverting that, it is possible that somebody guilty of unacceptable behaviour may be excluded from the list. The wording is unnecessary and it would be inconsistent to retain that power. It is unnecessary because we are giving local authorities greater flexibility to decide who should be in

[Andrew Stunell]

the frame for social housing, and it would be inconsistent because we are removing the power for local authorities to take behaviour into account when determining eligibility. That said, it is still appropriate for the Secretary of State to have a backstop power to ensure that local authorities' allocation schemes do not result in a completely unreasonable exercise of that power.

I do not believe that we are putting in place anything that is not already present, so I hope that that reassures the hon. Lady. I ask her to withdraw her amendment and hope that, in due course, she will be happy to accept the clause, too.

**Alison Seabeck:** On balance, I shall not press the amendment to a Division, but I shall make a few additional comments in the stand part debate. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Question proposed,* That the clause stand part of the Bill.

**Alison Seabeck:** The clause sets out the groups to be given reasonable preference, which includes those in unsuitable, unsanitary or overcrowded housing. It would be helpful to know how many people living in such conditions are in homes managed by registered social providers or the local authority if we are to understand the pressures in the allocation system that affect stock.

How is the clause likely to be interpreted when Army families return from Germany in the not-too-distant future? The Department for Communities and Local Government does not seem particularly worried about that additional demand because its answer to a recent question that I tabled was that it was a matter for local authorities. Will the Minister explain which categories such families will fall into? A large number of people—perhaps tens of thousands—may need to be housed when those service personnel are brought home. Defence Estates, by its own admission, does not have the capacity to house them all. There has been talk of using RAF Kinloss, but those premises are largely for single people, not families, many of which are now based in Germany. I do not think that the Navy will suggest using some of its decommissioned frigates as accommodation.

How will the local connection be decided in such cases? Could local authorities use subsection (5)(c) of the proposed new section to exclude families from accommodation in their area? We know that Aldershot is already under pressure as a result of the changed ruling on the Gurkhas and, quite reasonably, a large number of those returning Army families will also feel that their local connection is with that garrison town.

There is scope for the local connection to be misused or, worse, abused. What would happen if, as we have seen in some parts of England, local people wanted to keep a local area for one ethnic group or another and the council supported that view? I suspect that that would be a worst-case scenario—nobody would want that to happen—but it is not beyond the realms of possibility. What protections are in place to prevent such action, which could damage community cohesion?

Will the Minister let us know how subsection (9)(b) of the proposed new section will take account of data

protection and privacy? Clearly, we have a well-informed public these days who want access to everything, and there might be circumstances in which local authorities are put in a difficult position. For example, allegations made against an applicant by a third party might be relevant to their application, but the local authority clearly could not pass them on. Given the constraints around data, how will the applicant be able to compare their progress through the allocation process with that of others awaiting assistance? We have all heard people saying, “So-and-so down the road has been given an allocation and their case isn’t as good as mine.” I am not sure how this part of the Bill will resolve that, other than by perhaps presenting further problems for local authorities.

The Chartered Institute of Housing feels that the system is cumbersome and lacking transparency? How will the Minister address its concern that the scheme could generate high levels of demand for internal moves, which could pose problems for landlords in high-demand areas? The CIH has also described another possible problem: springboard tenancies, under which tenants get a home through the register and instantly seek a transfer to try to get a better property. That may not be the intent of the clause—indeed, it might not be what the clause will allow—but given that that concern has been raised by a fairly reputable body, I would welcome the Minister’s clarification on whether he and his officials think that that is a possibility.

**Andrew Stunell:** As with the preceding clause, the majority of the wording is in quotation marks because it is a reprinting of the existing legislation. As I tried to explain before—I am sorry that I was not very eloquent—the measure is exactly the same except that one provision is missing: the one relating to what we might characterise as antisocial behaviour. Everything that appears in the Bill is simply carrying forward existing legislation. That is not to say that the hon. Lady has not raised some perfectly sensible points, but I do not want her to form the impression that we have somehow smuggled in a whole new set of new provisions that are untested and untried. I do not think anything here will give rise to anything new, although I accept that the current system is not capable of making everybody happy, because we are dealing with a quantity that is in short supply and under pressure.

The hon. Lady asked a sensible question about the position of returning service families. There is a circular of statutory guidance on giving additional priority to those in medical and welfare categories, and I know that my local authority’s allocation scheme reflects that. I have no doubt that that will continue to be the case. If a situation were to develop in the way in which the hon. Lady has outlined, I am sure that local authorities would consider it part of their role to reflect that in their allocation systems.

The hon. Lady asked about data transfer and transparency, but because we are restating an existing provision, everything is as it is now—we are not introducing any new requirement that might lead to the leakage of data. I agree that plenty of people who apply unsuccessfully for houses believe that there is dirty work at the crossroads by the council, by applicants or—dare I say it—by people who do not have visas. Those are all difficult

issues, of course, but the current allocation system and general needs provision are unaffected by our proposals.

More broadly, we want a really open and transparent allocation scheme so that anybody can see what a particular council's scheme is, and can understand why they have been included or excluded and whether it is appropriate for them to appeal. The Chartered Institute of Housing may feel that the system is cumbersome—I understand that point of view—but it has been cumbersome for about 15 years. I have not seen any specific proposals from the institute about how it might be streamlined, but I suggest to the Committee that this existing provision—we consulted and found overwhelming support for continuing with it—should quite properly be included in the Bill.

**Alison Seabeck:** As the Minister rightly says, the clause is a carry-over. I am delighted to see that the respondents to the consultation thought that, by and large, the system was not broken and did not need to be changed, and that it has worked over the years. It is clearly not perfect, and if we could come up with an option to improve it, we would like to do so.

On returning service personnel, it behoves the Department for Communities and Local Government to talk to the Ministry of Defence and work with those local authorities that could see quite a significant influx to ensure that the situation does not suddenly land on their doorsteps with the result that they have to invoke measures in the Bill to enable them to exclude people from the allocation process at the last minute. Frankly, it would go down like a lead balloon with the wider public if they thought that service families were being excluded.

**Andrew Stunell:** I hope that the hon. Lady is not suggesting that that would be the Government's intention—it is absolutely not. We have made it extremely clear that we put the welfare of our armed forces at the top of our agenda. Indeed, a debate took place on exactly that point earlier this week. I repeat that there is a circular of statutory guidance to local authorities on giving additional priorities to returning families in medical and welfare need.

10.15 am

**Alison Seabeck:** I hear what the Minister says, but there might be a significant problem. We are not necessarily discussing people who are medical or welfare cases; we are discussing families returning from Germany, and it is not appropriate to put them all up at RAF Kinloss. They will all claim a local connection, which might well be to some of the garrison towns, such as Colchester and Aldershot—and perhaps parts of Plymouth—and that could put quite a burden on the local authority. The Minister talks about the circular, but the written answer that I received from his Department in the past couple of weeks basically said, "It's not our responsibility; it's local government's responsibility." There is a problem brewing. He is quite right that the clause has been carried over, but it could be misused. It might be a good idea to get together with local authorities and the MOD at an early stage so that the nature of the problem is fully understood.

*Question put and agreed to.*

*Clause 123 accordingly ordered to stand part of the Bill.*

## Clause 124

### DUTIES TO HOMELESS PERSONS

**Alison Seabeck:** I beg to move amendment 226, in clause 124, page 110, line 19, after 'suitability', insert 'and affordability'.

**The Chair:** With this it will be convenient to discuss the following: amendment 230, in clause 124, page 110, line 23, leave out

'a private rented sector offer'

and insert

'an accredited private rented sector offer as specified in section [Private rented sector accreditation schemes] of the Localism Act 2011'.

Amendment 227, in clause 124, page 110, leave out line 28.

Amendment 231, in clause 124, page 110, line 30, leave out 'private rented sector offer' and insert

'accredited private rented sector offer as specified in section [Private rented sector accreditation schemes] of the Localism Act 2011'.

Government amendments 168 and 169.

Amendment 232, in clause 124, page 110, line 38, leave out 'private rented sector offer' and insert

'accredited private rented sector offer as specified in section [Private rented sector accreditation schemes] of the Localism Act 2011'.

Amendment 229, in clause 124, page 110, line 39, at end insert

'and (b) at the end of paragraph (c) insert—

"(d) the cost of the tenancy to the applicant is not in excess of the Local Housing Allowance for the broad rental market area in which the private rented sector offer is located.

(e) the authority is satisfied that the private rented sector offer meets the Decent Homes standard.".

Amendment 218, in clause 124, page 110, line 40, leave out subsection (8) and insert—

'(8) In subsection (7D) after "end;" insert—

"(ab) the landlord is a member of an accreditation scheme for private sector landlords operated or approved by the authority;".

Amendment 228, in clause 124, page 110, line 40, leave out subsection (8).

Amendment 216, in clause 124, page 110, line 40, leave out '(7B) to' and insert '(7C) and'.

Amendment 217, in clause 124, page 110, line 40, at end insert—

'(8A) In subsection (7D) at end insert—" or,

(d) (i) an assured shorthold tenancy of a minimum duration of 12 months is available to the applicant;

(ii) the applicant has previously been placed in an assured shorthold tenancy of a duration of greater than six months and less than 12 months between the date of the application being made and the date of the tenancy mentioned in sub-paragraph (i) becoming available;

(iii) the local authority considers that the tenancy available can be afforded by the applicant;

(iv) a housing support services assessment for the applicant has concluded that any support needs of the household to which the applicant belongs can be met within the accommodation provided under the tenancy that is available;

- (v) the support to meet the support needs of the household is available; and
- (vi) the local authority has advised the applicant of tenants' and landlords' rights and obligations under an assured shorthold tenancy and has directed the applicant to sources of independent advice and information.".'.

Amendment 233, in clause 124, page 111, line 2, leave out 'private rented sector offer' and insert

'accredited private rented sector offer as specified in section [*Private rented sector accreditation schemes*] of the Localism Act 2011'.

Amendment 219, in clause 124, page 111, line 12, leave out subsection (11) and insert—

'(11) Where an authority is under a duty to provide an applicant with advice and assistance under section 190(2)(b), 192(2) or 195(5) of the Housing Act 1996, the authority shall not procure or arrange a private rented sector offer to the benefit of the applicant unless the landlord by whom the offer is made is a member of an accreditation scheme for private sector landlords operated or approved by the authority.'

New clause 13—*Homeless persons: advice and assistance*—

'After section 184 of the Housing Act 1996 (Inquiry into cases of homelessness or threatened homelessness) insert—

**"184A Prevention of homelessness: advice and assistance**

(1) An authority may, in the course of its enquiries under section 184, provide advice and assistance to the applicant for the purpose of the prevention of homelessness.

(2) The applicant's housing needs shall be assessed before the advice and assistance is provided under subsection (1).

(3) The advice and assistance provided under subsection (1) must include information about the likely availability in the authority's district of accommodation appropriate to the applicant's housing needs (including, in particular, the location and sources of such accommodation).

(4) The advice and assistance provided under subsection (1), including the assessment of the housing needs of and options available to the applicant, shall, in addition to the information specified in subsection (3), set out the steps which in the opinion of the authority are required to resolve the applicant's housing needs.

(5) Any advice and assistance or offer of future assistance provided or made in accordance with subsection (4) shall be notified in writing to the applicant at the time when such provision or offer takes place or as soon as reasonably practicable thereafter.

(6) Where at any time prior to the making of a decision under section 184(3) the authority proposes to procure or arrange for the applicant a private rented sector offer, the applicant is free to reject such an offer without affecting the duties owed to him by the authority under this Part.

(7) The authority shall secure that any offer of accommodation which is made in the circumstances described in subsection (3)—

- (a) is an offer of a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) for a period of at least twelve months; and
- (b) is accompanied by a statement in writing which specifies the term of the tenancy being offered and explains in ordinary language—
  - (i) that there is no obligation to accept the offer, but
  - (ii) that if the offer is accepted, the authority may decide that the applicant is no longer homeless or threatened with homelessness and the consequences of such a decision, and
  - (iii) the implication of the applicant deciding not to accept the offer.

(8) A notification or statement under subsection (2) or subsection (4)(b) shall inform the applicant of his right to seek independent advice in respect of the matters contained in that document.".'.

New clause 14—*Private rented sector accreditation schemes*—

'(1) Every local housing authority must operate one or more voluntary accreditation schemes for landlords in the private rented sector.

(2) An authority may operate a landlord accreditation scheme itself or in conjunction with other persons and may delegate performance of this function, or aspects of this function, to another person.

(3) The Secretary of State shall by order:

- (a) define the nature and scope of accreditation schemes;
- (b) prescribe the criteria for membership of accreditation schemes;
- (c) prescribe requirements as to the professional qualifications or standards of persons who will operate an accreditation scheme in conjunction with the authority or to whom it intends to delegate performance of this function;
- (d) establish standards of conduct and practice ("the minimum standards") with regard to the disposal and management of residential accommodation which shall be required as a condition of membership of accreditation schemes, including requirements as to the condition of premises let by accredited landlords;
- (e) provide for a system of inspection of premises and monitoring of compliance with the minimum standards;
- (f) to provide for means of redress where there has been a clear failure to meet minimum standards, including provision for termination of membership and procedures for review of decisions;
- (g) make provisions concerning any matter relevant to the objectives, management and operation of accreditation schemes; and
- (h) permit the scheme to consider and take action where a complaint is received or there are grounds for considering whether enforcement actions should be taken under legislation in relation to any premises owned or managed by a member of an accreditation scheme, in such circumstances and subject to such conditions as may be prescribed.'

**Alison Seabeck:** Let me start with new clause 13, which would sit in the homelessness part of the Bill and would bring all the measures and procedures adopted by local authorities under housing options, or similar schemes, within the statutory homelessness framework as per part VII of the Housing Act 1996. The new clause comes with the strong support of the homelessness charity Shelter, whose chief executive, Campbell Robb, gave oral evidence to the Committee.

Under the present system, a person approaching the council for assistance is required to have a formal interview that offers advice on housing options. That is required for not only people who are seeking to be assessed as homeless, but those who want to bid for social housing through the authority's choice-based letting scheme. As such, the first contact with the local authority from which a homeless applicant wants to seek help is not regulated or covered by any statutory minimum standards. According to figures released by the Minister's Department in "Homelessness Prevention and Relief: England 2009-10" more than 165,000 households were assisted by housing options services outside the statutory homelessness framework in that year, which is four times the number of acceptances and 85% more than the number of homelessness decisions made within the statutory framework. In effect, 165,000 people were not covered by any minimum standard.

We have heard from the Minister and Labour Members that standards vary greatly across local authorities. As local authorities' responsibilities increase and they are able to vary the way in which they deliver services, it will be more important than ever to guarantee certain statutory minimum standards. If there is a need to track a family's income to decide its ongoing suitability for a home, as the Bill proposes, it is also extremely important that interviews and data received are managed consistently.

Basing housing options within the statutory framework would still give local authorities the freedom to tackle housing issues as they see fit. It would, however, guarantee a basic level of support for vulnerable people, who can often be intimidated by the complexity of housing legislation and may be unaware of their rights. New clause 13 would require an authority to assess the housing needs of the applicant with a view to targeting its advice towards those specific needs. The authority would be required to set out its advice and any offers of assistance in writing, which would include any housing options that had been identified as appropriate for the applicant. The new clause makes it clear that the applicant would not be under any obligation to adopt a specific housing option or to accept a private tenancy arranged by the authority as an alternative to the authority being required to complete its inquiries into the applicant's homelessness. It would require that when an authority arranges for an offer of private tenancy to be made to an applicant during a housing options process, the authority must ensure that the tenancy is of at least 12 months' duration and that the applicant is clearly informed that he or she is not bound to accept the offer. If he or she does accept, the authority will be under no duty to complete its inquiries or to decide on his or her homelessness application.

The provision would not be onerous for a local authority, although I acknowledge that there might be some concerns about a slight increase in the bureaucratic burden that it could create. However, the best authorities do some of this work already.

**Stephen Gilbert** (St Austell and Newquay) (LD): Does the hon. Lady agree that while there might be an additional cost to local authorities, providing proper advice and support early on might save the taxpayer a lot of money in the long run simply by reducing repeat homelessness?

**Alison Seabeck:** The hon. Gentleman makes a good point. He and I would argue that good advice early on saves money in the long term, which is why the cuts to some housing advice services could be quite damaging and expensive in the long run.

The Bill significantly weakens the rights of homeless people and those at risk of homelessness. I am interested to know what principal objections—if any—the Minister has to greater statutory protection for people approaching their local authority for assistance. Did he consider such an option during the drafting of the Bill? If so, why did such a provision not make it, because I have no doubt that Shelter and other bodies would have lobbied pretty hard and spoken to officials? New clause 13 would be a welcome addition to the Bill, so I hope that the Committee will support it when we press it to a Division.

There are a number of amendments in this group, and I know that other Members will want to speak to theirs, so I shall endeavour to keep my remarks relatively brief.

Amendment 226 would place in the Bill a requirement that properties should be affordable to the applicant. Depending on what the Minister believes are the statutory implications of "suitability", this will be a probing amendment. We do not want an applicant to be placed in difficulty because they have been allocated unaffordable private rental sector accommodation, or for that accommodation to make them heavily reliant on state support in the form of housing benefit. It is important that an allocation is affordable for someone with average earnings who does not have recourse to housing benefit but may be prescribed by the Secretary of State as eligible for housing. Will the Minister confirm whether the definition of "suitability" will reflect the applicant's entitlement to local housing allowance? Will it take into account the income of the applicant and their ability to afford the accommodation? If not, is it not appropriate to amend the Bill to ensure that accommodation is affordable?

Not all local housing authorities spend a great deal of time with housing applicants working out whether they can manage their rent in advance of taking on a tenancy. Support and advice of the type mentioned by the hon. Member for St Austell and Newquay often does not happen early enough or in a way that makes it effective. Support and advice often kicks in only when a tenant starts to get into serious arrears. If affordability were a criteria, it would be clear that detailed early work would need to be undertaken, which could happen if a statutory duty were placed on local authorities as set out in new clause 13. If the Government wish to press ahead with the affordable rent model, such work will have to be done for the new tenancies in any case so that there is a benchmark by which to decide whether a person's income had risen above a certain level before they are moved on.

Amendment 227 would remove the change under the Bill to section 193(7AA) of the 1996 Act that would allow local authorities to discharge their homelessness duty by placing an applicant with priority into the private rented sector in any circumstances with or without the consent of the applicant. At present, 7% of homeless applicants with priority are placed in the private rented sector, and we accept that in certain restricted cases that is a suitable way forward, subject to agreement with the applicant. Local authorities make use of that ability, but when the Government propose to strip away the rights of applicants who have no right to refuse whatever they are offered, irrespective of its suitability, we must oppose the plans to weaken the rights and protections afforded to people accepted as unintentionally homeless. People who find themselves homeless—that can happen for a range of reasons, although it would not be a good use of the Committee's time to run through them—are extremely vulnerable.

10.25 am

*The Chair adjourned the Committee without Question put (Standing Order No. 88).*

*Adjourned till this day at One o'clock.*

